



**FY2022 TITLE VI PROGRAM PLAN
FEDERAL MOTOR CARRIER SAFETY
ADMINISTRATION
(FMCSA)**

August 2021

Table of Contents

I. Policy Statement	1
II. FMCSA Standard Title VI Program Assurances.....	2
III. Description of Federal-Aid Programs	11
IV. HDOT Title VI Program Notification to Beneficiaries and Participants	11
V. Sub-Recipient Compliance Reports	11
VI. TITLE VI Program Training.....	12
VII. Access to Records	13
VIII. Complaint Disposition Process	13
IX. Status of Corrective Actions Implemented by HDOT to Address Deficiencies Previously Identified During a Title VI Program Compliance Review	13
X. Community Participation Process	13
Attachment 1 – Public Notice of Title VI Program Rights	16
Attachment 2 Complaint Procedures.....	17
Attachment 3 Complaint Form.....	20
Attachment 4 Training Attendance Sheets.....	20
Attachment 5 FMCSA-Funded Program Complaint Log.....	21
Attachment 6 MVSO CMV Selection and Unbiased Enforcement Policy.....	22

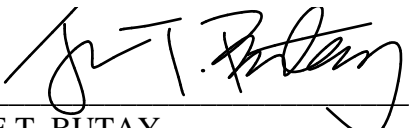
I. Policy Statement

TITLE VI NONDISCRIMINATION POLICY STATEMENT FOR FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

The State of Hawaii Department of Transportation (HDOT) is committed to ensuring compliance with Title VI of the Civil Rights Act of 1964 and related nondiscrimination authorities, including, but not limited to, 49 Code of Federal Regulations (C.F.R.) Part 21, 49 C.F.R. Part 303, 49 C.F.R. 350.213(b), and the **FMCSA** Standard Title VI Program Assurances.

It is the policy of the HDOT, that no person in the United States shall, on the basis of race, color, national origin, sex, age, disability, low-income, or Limited English Proficiency (LEP) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any federally or non-federally funded program or activity administered by the HDOT or its sub-recipients.

HDOT's Office of Civil Rights (OCR) Title VI Specialist has direct access to the Director of Transportation, and is delegated authority to develop, implement and monitor this policy. Moreover, the Director, Deputy Directors, Division Administrators, Program Administrators, and HDOT staff with civil rights responsibilities must ensure that HDOT and its sub-recipients comply with all Title VI requirements and that this policy is adhered to in their respective program areas.



JADE T. BUTAY
Director of Transportation

Jul 20, 2021

Date

II. FMCSA Standard Title VI Program Assurances

The United States Department of Transportation

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

The State of Hawaii, Department of Transportation (herein referred to as the “Recipient”), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the United States Department of Transportation (U.S. DOT), through the **FMCSA**, is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 Stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Title IX of the Education Amendments of 1972, as amended, (20 U.S.C. § 1681 *et seq.*), (prohibits discrimination on the basis of sex in education programs or activities);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability);
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 *et seq.*), (prohibits discrimination on the basis of disability);
- 49 C.F.R. part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI of The Civil Rights Act Of 1964*);
- 49 C.F.R. part 27 (entitled *Nondiscrimination On The Basis Of Disability In Programs Or Activities Receiving Federal Financial Assistance*);
- 49 C.F.R. part 28 (entitled *Enforcement Of Nondiscrimination On The Basis Of Handicap In Programs Or Activities Conducted By The Department Of Transportation*);
- 49 C.F.R. part 37 (entitled *Transportation Services For Individuals With Disabilities (ADA)*);
- 49 C.F.R. part 303 (FMCSA’s Title VI/Nondiscrimination Regulation);
- 28 C.F.R. part 35 (entitled *Discrimination On The Basis Of Disability In State And Local Government Services*); and
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the “Acts” and “Regulations,” respectively.

Although not applicable to Recipients directly, there are certain Executive Orders and relevant guidance that direct action by Federal agencies regarding their federally assisted programs and activities to which compliance is required by Recipients to ensure Federal agencies carry out their

responsibilities. Executive Order 12898 (1995), entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” emphasizes that Federal agencies should use existing laws to achieve Environmental Justice, in particular Title VI, to ensure nondiscrimination against minority populations. Recipients should be aware that certain Title VI matters raise Environmental Justice concerns and **FMCSA** intends that all Recipients evaluate and revise existing procedures (as appropriate) to address and implement Environmental Justice considerations. See the following Federal Highways Administration (FHWA) website for more information and facts about Environmental Justice:

http://www.fhwa.dot.gov/environment/environmental_justice/index.cfm

Additionally, Executive Order 13166 (2001) on Limited English Proficiency, according to the U.S. Department of Justice in its Policy Guidance Document dated August 16, 2000 (65 Fed. Reg. at 50123), clarifies the responsibilities associated with the “*application of Title VI’s prohibition on national origin discrimination when information is provided only in English to persons with limited English proficiency.*” When receiving Federal funds, Recipients are expected to conduct a Four-Factor Analysis to prevent discrimination based on National Origin. (See also U.S. DOT’s “*Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons,*” dated December 14, 2005, (70 Fed. Reg. at 74087 to 74100); the Guidance is a useful resource when performing a Four-Factor Analysis).

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

“No person in the United States shall, on the grounds of race, color, national origin, sex, age, disability, low-income, or LEP be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from DOT, including the FMCSA.”

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973) by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally-assisted.

Specific Assurances

More specifically, and without limiting the above general Assurances, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted **FMCSA** Program:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in 49 C.F.R. §§ 21.23 (b) and 21.23 (e) will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with the **FMCSA** Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

“The State of Hawaii, Department of Transportation in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, all contractors will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of the owner’s race, color, national origin, sex, age, disability, income-level, or LEP in consideration for an award.”

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or

- b. the period during which the Recipient retains ownership or possession of the property.
- 9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
- 10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the State of Hawaii, Department of Transportation also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the **FMCSA** access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the **FMCSA**. You must keep records, reports, and submit the material for review upon request to **FMCSA**, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The State of Hawaii, Department of Transportation gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the Department of Transportation under the **FMCSA Program**. This ASSURANCE is binding on the State of Hawaii, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the **FMCSA Program**. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

State of Hawaii, Department of Transportation
JADE T. BUTAY, Director

By:  _____
(Signature of Authorized Official)

Dated: Jul 20, 2021

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, **FMCSA**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FMCSA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FMCSA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FMCSA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FMCSA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY APPENDIX B

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the Department of Transportation as authorized by law and upon the condition that the State of Hawaii, Department of Transportation will accept title to the lands and maintain the project constructed thereon in accordance with the State of Hawaii Legislature, the Regulations for the Administration of **Federal Motor Carrier Safety Administration (FMCSA) Program**, and the policies and procedures prescribed by the **FMCSA** of the Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the State of Hawaii, Department of Transportation all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto State of Hawaii, Department of Transportation and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the State of Hawaii, Department of Transportation its successors and assigns.

The State of Hawaii, Department of Transportation in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns that: (1) no person will on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]*; (2) that the State of Hawaii, Department of Transportation will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended; and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI.)

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY OR PROGRAM

APPENDIX C

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the State of Hawaii, Department of Transportation pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, State of Hawaii, Department of Transportation will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the State of Hawaii, Department of Transportation will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the State of Hawaii, Department of Transportation and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate the purpose of Title VI.)

**CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED
UNDER THE ACTIVITY, FACILITY OR PROGRAM**

APPENDIX D

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by State of Hawaii, Department of Transportation pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that: (1) no person on the ground of race, color, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, State of Hawaii, Department of Transportation will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, State of Hawaii, Department of Transportation will there upon revert to and vest in and become the absolute property of State of Hawaii, Department of Transportation and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. § 2000d *et seq.*), (prohibits discrimination on the basis of race, color, national origin), as implemented by 49 C.F.R. § 21.1 *et seq.* and 49 C.F.R. part 303;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973 (23 U.S.C. § 324 *et seq.*) (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794 *et seq.*) (prohibits discrimination on the basis of disability); and 49 C.F.R. part 27;
- The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (Pub. L. 97-248 (1982)), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (102 Stat. 28) (“...which restore[d] the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.”);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189), as implemented by Department of Justice regulations at 28 C.F.R. parts 35 and 36, and Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of LEP. To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 *et seq.*).

III. Description of Federal-Aid Programs

Several of the grants which HDOT's Motor Vehicle Safety Office (MVSO) has applied for, and will continue to pursue, include the Commercial Driver License Program Implementation (CDLPI) Grants, Motor Carrier Safety Assistance Program (MCSAP) Grant, and the Commercial Driver License Information System Grant. These grants are necessary, in part, to provide and fund infrastructure upgrades to the mainframe system maintained by the City and County of Honolulu (Department of Information Technology), which stores and processes CDL records and related transactions. Commercial Driver License Information System grants also funded infrastructure updates to the State of Hawaii's mainframe in order to improve ability to update medical certification for all Commercial Driver License (CDL) and Commercial Learner's Permit holders. For MCSAP-funded activities that benefit the public, MVSO provides safety presentations to motor carrier companies interested in learning the regulations and requirements related to MVSO and FMCSA, as well as performing public outreach notifying the public of appropriate safety regulations, such as using the vehicle seat belt.

For Federal Fiscal Year 2022 (FY2022), MVSO has applied for the following grants:

- **MCSAP**, with no subrecipients. MCSAP-funded activities include: Roadside inspection and enforcement, compliance reviews, and public outreach.

IV. HDOT Title VI Program Notification to Beneficiaries and Participants

The Public Notice of Title VI Program Rights (Attachment 1) is posted on HDOT's Title VI website at <http://hidot.hawaii.gov/administration/ocr/title-vi-program>. This notice shall be placed in areas accessible to the public, such as, but not limited to, CDL testing locations and the publicly accessible areas of the HDOT Motor Vehicle Safety Office. Posting of appropriate notices was completed at the HDOT MVSO and confirmed via photographs provided and independent verification within FY2021.

V. Sub-Recipient Compliance Reports

HDOT is responsible for monitoring Title VI compliance of its sub-recipients, which includes ensuring sub-recipients provide Assurances (as described below), conduct process and program reviews, and collect and analyze data. Each sub-recipient should identify a Title VI Specialist and develop a Title VI Program Plan.

HDOT will review its sub-recipients annually and will cover the following as part of its review:

1. **Certifications and Assurances:** as part of its annual grant submission or agreement did the sub-recipient sign Title VI Certifications and Assurances?
2. **Public Notification:** does the sub-recipient have procedures in place for notifying the public of the Title VI rights and procedures that the public may follow to file a complaint?
3. **Public Participation:** does the sub-recipient have procedures in place for conducting public outreach and involvement activities?

4. **Investigation/Compliant/Lawsuit Process:** does the sub-recipient have written procedures for recording, responding to, and resolving Title VI investigations, complaints and lawsuits?
5. **Language Access Plan for LEP Individuals:** does the sub-recipient have a written plan for providing meaningful access to activities and programs for persons with LEP based on Federal DOT LEP guidance?
6. **Title VI Program:** has the sub-recipient developed a sufficient plan to implement its Title VI Program?

For HDOT-MVSO, there are no subrecipients receiving MCSAP funding currently or in the recent past. For CDLPI, previous subrecipients (as of 2013) include:

- City & County of Honolulu, Department of Information Technology
- City & County of Honolulu, Customer Services Department – Motor Vehicle Licensing & Permits (MVLPI)
- County of Maui, Department of Finance – Motor Vehicle Registration and Licensing Division
- County of Hawaii, Department of Finance – Vehicle Registration and Licensing Division
- County of Kauai, Department of Finance – Driver’s Licensing Division

HDOT OCR worked with MVSO to coordinate compliance reviews of the following subrecipients during FY2021:

- County of Hawaii – Vehicle Registration & Licensing Division
 - HDOT OCR completed a desk review virtually with the County of Kauai Driver’s Licensing Division (due to COVID-19) to the satisfaction of all parties with no findings noted.

For FY2022, HDOT OCR will work with HDOT-MVSO to coordinate compliance reviews of the following:

- County of Maui, Department of Finance – Motor Vehicle Registration and Licensing Division

VI. TITLE VI Program Training

HDOT shall provide Title VI training to all sub-recipients bi-annually to ensure that sub-recipients are aware of Title VI Program requirements that impact FMCSA-related activities. HDOT shall also provide Title VI training to all applicable HDOT personnel on a bi-annual basis, incorporating reference to the Title VI Program Policy Statement and applicable PowerPoint presentation(s), either in-person or web-based, provided by the HDOT Title VI Program Specialist or appropriate manager/administrator covered under this FMCSA Title VI Program Plan. Participation in the Title VI training will be noted in a record kept by the Title VI Program Specialist and the appropriate manager or administrator covered under this FMCSA Title VI Program Plan. A record of all appropriate staff trained by the Title VI Program Specialist as of the end of calendar year 2018, with additional documentation for subsequent training held for new employees in April 2020, is attached with this plan and can be found as Attachment 4 – Training Attendance Sheets, below.

VII. Access to Records

HDOT shall provide Title VI Program-related documents to FMCSA upon request during normal business hours, either through electronic format and/or hard copy. HDOT shall cooperate with FMCSA required reviews of its Title VI Program.

VIII. Complaint Disposition Process

HDOT's Complaint Procedures (Attachment 2) and Complaint Form (Attachment 3) for Title VI complaints, are available on the HDOT website at:

<https://hidot.hawaii.gov/administration/files/2016/07/FMCSA-Complaint-Procedures.pdf>. In

addition, HDOT shall provide a separate log of any Title VI FMCSA complaints received by OCR.

IX. Status of Corrective Actions Implemented by HDOT to Address Deficiencies Previously Identified During a Title VI Program Compliance Review

There have been no compliance reviews conducted by FMSCA that warranted corrective action within the last five Federal fiscal years. Similarly, there have been no compliance reviews conducted by other appropriate Federal agencies¹ with civil rights compliance oversight authority over HDOT within the last five Federal fiscal years.

X. Community Participation Process

HDOT does not provide direct services to the public for motor vehicle registration and motorist licensure, and, therefore, no outreach activities have been scheduled to facilitate community participation. HDOT's sub-recipients that provide direct services, such as motor vehicle registration, motorist's licensure, and CDL testing, shall be monitored by HDOT to ensure compliance with this part. Federally-funded activities that do occur through HDOT MVSO include:

MCSAP-Funded (Current or Previous)	Public outreach and promotion of awareness of safety activities (seat-belt surveys, provision of written materials for seat belt enforcement, child safety protection, NO-ZONE enforcement, etc.)
CDLPI-Funded (Current or Previous)	<ul style="list-style-type: none">• MVSO has indicated that County DMVs have reached out, in coordination with Federal partners (such as United States Citizenship and Immigration Services, Department of Homeland Security) and advocacy groups to provide proper information

¹ Appropriate agencies include: Federal Highways Administration, Federal Transit Administration, and Federal Aviation Administration.

	<p>and awareness and dispel confusion with regards to the provision of REAL ID-compliant credentials like the State of Hawaii Driver's License and State ID Card. This outreach has included efforts to note changes in policy and extensions on deadlines in light of COVID-19.</p> <ul style="list-style-type: none"> • HDOT OCR is also working to provide translations of the State of Hawaii Driver's Manual into 10 languages, to accompany the written knowledge portion of the driver's license exam. These languages include: <ol style="list-style-type: none"> 1. Marshallese 2. Chuukese 3. Ilocano 4. Hawaiian 5. Traditional Chinese 6. Simplified Chinese 7. Tagalog 8. Samoan 9. Tongan 10. Vietnamese • The State of Hawaii Driver's Manual has already been translated into Spanish, Japanese and Korean, and is available via MVSO's section of the website.
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Furthermore, both HDOT as a State agency and the related covered entities under HDOT in receipt of current or previous funding must produce a Language Access Plan and designate a Language Access Coordinator, as required by §321C, Hawaii Revised Statutes.² This is to ensure improving access for LEP individuals using State and covered entity services, programs, or otherwise.

XI. Commercial Motor Vehicle Inspection/Unbiased Enforcement Policy

The HDOT has developed a combined Commercial Motor Vehicle (CMV) Inspection and Unbiased Enforcement Policy in line with the guidelines for policy development as set forth in the Commercial Vehicle Safety Alliance Operational Policy #13 titled *Selecting Vehicles for Inspection*. This combined policy also incorporates the appropriate portions of this Title VI Program Plan in pertinent part with regard to the Title VI Public Notice (Section IV, above, and Attachment 1), the Title VI Complaint Procedures (Section VIII, above, and Attachments 2 and 3), training of

² See https://www.capitol.hawaii.gov/hrscurrent/Vol06_Ch0321-0344/HRS0321C/. Also see <https://hidot.hawaii.gov/administration/files/2016/04/language-access-plan.pdf> for a copy of the most recently approved Language Access Plan for HDOT.

Title VI policy and procedures (Section VI, above, and Attachment 4) and shall be in line with monitoring of Title VI compliance as set forth in this plan. This policy, attached as Attachment 6 below, has been reviewed by the HDOT Director and signed in approval as of July 19, 2021.

Attachment 1 – Public Notice of Title VI Program Rights

Public Notice of Title VI Program Rights

The Hawaii Department of Transportation (HDOT) gives public notice of its' policy to uphold and assure full compliance with the non-discrimination requirements of Title VI of the Civil Rights Act of 1964 and related Nondiscrimination authorities. Title VI and related Nondiscrimination authorities stipulate that no person in the United States of America shall on the grounds of race, color, national origin, sex, age, disability, income level or Limited English Proficiency be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance.

Any person who desires more information regarding HDOT's Title VI Program can contact its Title VI Program Specialist at the address noted below.

Any person who believes they have, individually or as a member of any specific class of persons, been subjected to discrimination on the basis of race, color, national origin, sex, age, disability, income level or Limited English Proficiency has the right to file a formal complaint. Any such complaint must be in writing and submitted within 180 days following the date of the alleged occurrence to:

Office of Civil Rights/Title VI Program Specialist
Hawaii Department of Transportation
200 Rodgers Boulevard
Honolulu, Hawaii 96819
(808) 831-7921
hdot-titlevi@hawaii.gov

Attachment 2 Complaint Procedures

Hawaii Department of Transportation Title VI Civil Rights Complaint Procedures for FMCSA Funded Programs

These discrimination complaint procedures pertain to FMCSA assisted programs or activities. The procedures do not deny the right of the complainant to file formal complaints with other state or federal agencies or to seek private counsel for complaints alleging discrimination.

Procedures

- A. Any person, specific class of persons or entity that believes they have been subjected to discrimination as prohibited by the legal provisions of Title VI on the basis of race, color, national origin, age, sex, disability, income status or LEP may file a formal complaint with HDOT's Office of Civil Rights, 200 Rodgers Blvd., Honolulu, Hawaii, 96819. Instructions for complaint submittal are explained below.
 - 1. A formal complaint must be filed within 180 calendar days of the date of the alleged act of discrimination or the date when the alleged discrimination became known to the complainant(s). The time period for filing may be extended at the discretion of HDOT due to extenuating circumstances beyond the complainant's control.
 - 2. Complainants with Limited English Proficiency needing assistance with Complaint Procedures or with the Complaint Form may request translation or interpretive service without charge.
 - 3. Complaint shall be in writing and signed by the complainant(s). The complaint shall be delivered by mail or in person to the Office of Civil Rights (address above). Faxed or emailed complaints shall be followed up by hard copy complaints with original signatures. Oral complaints should be reduced to writing by complainant's representative and provided to the complainant(s) for confirmation and signature before actual submission.
- B. The complaint should contain the following:
 - 1. Date of the alleged act of discrimination; or date when the complainant(s) became aware of the alleged discrimination.
 - 2. Detailed description of the issues including names and job title of those individuals perceived as parties in the discrimination.
- C. Upon receipt of the complaint, OCR will determine its jurisdiction, acceptability or need for additional information before initiating an investigation. In cases where the complaint is related to transit or airports activities within HDOT's jurisdiction, the case will be investigated pursuant to Federal Highways Administration, Federal Transit Administration or Federal Aviation Administration requirements, as applicable.
- D. Acceptance of a complaint will be determined by:

1. Whether the complaint is timely filed, or when it is not timely filed, there is justification for filing beyond the 180-day time limit.
 2. Whether the allegations involved a covered basis such as race, color, national origin, sex, disability, age, limited English proficiency, or income status.
 3. Whether the allegations involve a program or activity of a federal aid recipient, subrecipient, or contractor.
 4. Whether the complaint is beyond the administrative authority of HDOT.
- E. A complaint may be dismissed for the following reasons:
1. The complainant requests the withdrawal of the complaint.
 2. The complainant fails to respond to repeated requests for additional information necessary to process the complaint, or otherwise fails or refuses to cooperate in the investigation.
 3. The complainant cannot be located after reasonable attempts to contact such person(s).
- F. OCR has sole authority for accepting complaints for investigation. Within ten (10) business days of receipt of the complaint, OCR will acknowledge receipt of the complaint to the parties as well as the course of action on the complaint. The course of action may include acceptance of the complaint for investigation, request for additional information, or rejection of the complaint. The complaint will receive a case number and be logged into the OCR's complaint records identifying its basis, and the alleged discrimination.
- G. All such complaints may also be forwarded to FMCSA for review upon request.
- H. HDOT Title VI Specialist will conduct an investigation unless otherwise directed by FMCSA and will provide the respondent written notification of the opportunity to respond to the allegations. The respondent will have ten (10) calendar days from the date of notification to furnish his/her response to the allegations in a position statement.
- I. If the complaint is related to a compliance investigation or safety audit conducted by the office subject to FMCSA regulation, the Title VI Specialist will request any and all related documentation related to the compliance investigation or safety audit and will conduct interviews of any and all related individuals as necessary. All timeframes for resolution of the complaint investigation as stated in these procedures will not change.
- J. Within ninety (90) calendar days from the receipt of respondent's position statement, the HDOT investigator will prepare an investigative report. The report shall include a narrative description of the incident, identification of persons interviewed, findings and recommendations for disposition.
- K. The investigative report shall be reviewed and finalized by the OCR Civil Rights Coordinator and approved by the HDOT Director.
- L. The complainant and respondent shall receive written notification of the investigative findings (i.e. cause or no cause) and a copy of notification shall be forwarded to FHWA/FMCSA.

- M. Any complainant dissatisfied with the decision of HDOT will be notified of the option to have the HDOT decision reviewed upon request by FMCSA by filing a separate complaint directly to FMCSA to review the case under dispute. FMCSA will then determine what action, if any, shall be taken.

Attachment 3 Complaint Form

State of Hawaii Department of Transportation Complaint of Discrimination for FMCSA-Funded Programs (External)		
Complainant(s) Name:		Complainant(s) Phone Number:
Complainant(s) Address:		
Representative's Name, Address, Phone Number and Relationship (e.g. friend, attorney, parent, etc.) <i>(if applicable)</i> :		
Name and Address of Agency Complaint is Against		
Contact Person at Agency		
Discrimination Based on:	<input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> National Origin <input type="checkbox"/> Sex <input type="checkbox"/> Age <input type="checkbox"/> Disability <input type="checkbox"/> Low Income <input type="checkbox"/> Limited English Proficiency	Date(s) of Alleged Discrimination:
Please list the name(s) and phone number(s) of any person, if known, that the Hawaii Department of Transportation could contact for additional information to support or clarify your allegation(s).		
Complainant(s) or Complainant(s) Representatives Signature:		Date of Signature:

Attachment 4 Training Attendance Sheets

April 13, 2020 Virtual Training Held via Microsoft Teams (New Hires):³

ID	Start time	Completion time	Email	Name	Total points
1	4/7/20 16:48:16	4/7/20 16:48:36	randall.t.landry@hawaii.gov	Randall Landry	100
2	4/13/20 13:21:08	4/13/20 13:29:06	kayne.c.selby@hawaii.gov	Kayne Selby	100
3	4/13/20 13:23:15	4/13/20 13:32:11	john.lovstedt@hawaii.gov	Roy Lovstedt	40
4	4/13/20 13:21:53	4/13/20 13:35:35	toby.r.wakumoto@hawaii.gov	Toby Wakumoto	100

Virtual Training Completion – Refresher for Management (and Re-Test for One)

ID	Start time	Completion time	Email	Name	Total points
5	4/13/20 14:07:51	4/13/20 14:22:40	john.lovstedt@hawaii.gov	Roy Lovstedt	100
6	4/14/20 6:17:37	4/14/20 6:18:31	susan.chang@hawaii.gov	Susan Chang	100

Training and Re-Tests Throughout FY2021:

Start time	Completion time	Email	Name	Total points
10/16/20 7:57:49	10/16/20 7:59:23	brett.k.tominaga@hawaii.gov	Brett Tominaga	65
10/16/20 7:59:54	10/16/20 8:00:40	stanton.s.ishii@hawaii.gov	Stanton Ishii	100
10/16/20 8:07:13	10/16/20 8:11:46	benjamin.d.sarian@hawaii.gov	Benjamin Sarian	100
10/16/20 8:12:38	10/16/20 8:14:12	nelson.k.baker@hawaii.gov	Nelson Baker	85
10/16/20 9:37:07	10/16/20 9:39:30	susan.chang@hawaii.gov	Susan Chang	80
10/16/20 9:40:53	10/16/20 9:41:22	henry.h.kwon@hawaii.gov	Henry Kwon	100
10/16/20 15:06:07	10/16/20 15:08:49	brett.w.wong@hawaii.gov	Brett Wong	100
10/19/20 7:26:41	10/19/20 7:30:19	danson.i.cappo@hawaii.gov	Danson Cappo	65
10/19/20 11:14:39	10/19/20 11:19:25	danson.i.cappo@hawaii.gov	Danson Cappo	100
10/21/20 8:58:05	10/21/20 8:58:50	brett.k.tominaga@hawaii.gov	Brett Tominaga	100
10/27/20 7:47:27	10/27/20 8:11:36	kayne.c.selby@hawaii.gov	Kayne Selby	100
10/27/20 8:17:28	10/27/20 8:21:55	gene.g.gabriel@hawaii.gov	Gene Gabriel	50
10/27/20 15:22:42	10/27/20 15:27:43	gene.g.gabriel@hawaii.gov	Gene Gabriel	80
11/4/20 7:51:06	11/4/20 7:54:53	sean.m.prendergast@hawaii.gov	Sean Prendergast	100
11/10/20 10:12:46	11/10/20 10:20:27	preston.p.ko@hawaii.gov	Preston Ko	100
1/28/21 8:19:53	1/28/21 8:23:51	justin.l.faulkner@hawaii.gov	Justin Faulkner	100
1/29/21 8:17:32	1/29/21 8:19:59	marissa.a.bondaug@hawaii.gov	Marissa Bondaug	85

³ Scores reflect virtual training provided via Microsoft Teams in light of COVID-19 pandemic April 13, 2020. Participants were 1 new hire in the Motor Carrier Section of the Motor Vehicle Safety Office (MVS), 1 new hire in the Highway Safety Section of MVS, and refresher training for the two respective section managers. Testing was performed via Microsoft Forms Title VI Quiz, with results gained from participants. Full spreadsheets reflecting performance available separately. Highway Safety Section manager required re-testing given failing initial score.

Attachment 5 – FMCSA-Funded Program Complaint Log*

[illegible]

*-Please note no complaints related to FMCSA-Funded Programs were filed from the period of August 2020 to as of June 1, 2021.

Attachment 6 – MVSO CMV Selection and Unbiased Enforcement Policy⁴

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
MOTOR VEHICLE SAFETY OFFICE

POLICY FOR THE SELECTION OF VEHICLES FOR INSPECTION

I. PURPOSE

To establish uniform guidelines for the selection of commercial motor vehicles (CMV) for the Motor Vehicle Safety Office (MVSO) vehicle inspection operation.

II. APPLICABILITY

Applies to all Motor Carrier Safety Officers (MCSO) as well as all applicable police officers participating in commercial motor vehicle inspections either as a subrecipient of MVSO or in cooperation with MCSO inspection operations.

III. POLICY

To concentrate inspection efforts on those CMVs that have a negative impact on highway safety. Inspections to be conducted only by Commercial Vehicle Safety Alliance (CVSA) certified inspectors utilizing the North American Standard Inspection procedures set forth by the CVSA.

IV. GUIDELINES FOR THE SELECTION OF CMVS FOR INSPECTION

1. Priority for inspections will be given for situations where there is an observed violation of the law and/or regulations. This could be a violation relating to the driver or the vehicle, including equipment. Ex: Out-of-Service conditions such as flat tire, securement violations, required markings on the vehicle, etc.
2. CMVs with no current quarterly MVSO Hawaii Department of Transportation (HDOT) inspection sticker on the front bumper;
3. CMVs displaying an expired HDOT safety inspection decal on the front windshield;
4. Using a standardized electronic vehicle screening systems such as Inspection Selection System and Query Central that display carrier safety rating information. Those carriers that are poorly rated with a red light, even a yellow light or have insufficient data will take priority in the inspection selection.

⁴ Policy set forth in Attachment 6 to be incorporated in the MVSO Motor Carrier procedures and implemented and incorporated into staff's daily activities.

5. Vehicles displaying a current quarterly HDOT inspection sticker will generally not be subjected to an inspection unless an equipment violation is observed.
6. Certified inspectors shall not disturb/interrupt any driver of a CMV while in off-duty or sleeper berth status when legally parked for the purpose of conducting a random inspection.
7. Level V inspections should only be done on vehicles on the “ready line awaiting dispatch” or “vehicles not slated for maintenance”.

V. TITLE VI PROGRAM ASSURANCES

The Division is committed to the unbiased and equitable treatment of all persons in enforcing the law and providing services. Officers conducting CMV inspections, will adhere to the U.S. DOT Standard Title VI / Non-Discrimination Assurances, U.S. DOT Order No. 1050.2A and the policies and procedures set forth in the HDOT Title VI Program Plan for the Federal Motor Carrier Safety Administration (FMCSA) which is updated annually.

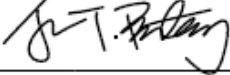
1. It is the policy of the HDOT to uphold and ensure full compliance with the non-discrimination requirements of Title VI of the Civil Rights Act of 1964 and related non-discrimination authorities as identified in the FMCSA Title VI Program Assurances signed by the HDOT.
 - a. These authorities require that all programs and activities are being operated in a non-discriminatory manner and no person shall be excluded from participation in, be denied the benefits of or, otherwise be subjected to discrimination under any HDOT program or activity on the basis of race, color, national, origin, sex, age, disability, income level, or limited English proficiency.
 - b. HDOT has posted a Public Notice of Title VI Program Rights that informs the public of the department's Title VI program assurances and responsibilities. The policy may be viewed online at:
<https://hidot.hawaii.gov/administration/files/2021/06/FMCSA-Title-VI-Public-Notice.pdf>.
2. HDOT has also posted the Complaint Form and Complaint Procedures for Title VI-related complaints which allows members of the public to formally file a complaint related to administration or handling of FMCSA-funded programs as appropriate. These documents may be viewed online at:
<https://hidot.hawaii.gov/administration/files/2021/06/FMCSA-Title-VI-Complaint-Procedures-and-Form.pdf>.
3. To best ensure thorough compliance with the requirements of the HDOT Title VI Program Plan for FMCSA, HDOT also ensures regular training of

all applicable personnel subject to this policy. This training regimen shall include review of FMCSA Enforcement Memorandum #MC-ECE-2016-006, "*English Language Proficiency Testing and Enforcement Policy*" as part of overall knowledge goals regarding Title VI and understanding by applicable personnel of the needs of Limited English Proficient drivers and carrier representatives. Details regarding the regularity of this Title VI training policy are part of the overall HDOT Title VI Program Plan, Section VI, via the following link:

<https://hidot.hawaii.gov/administration/files/2020/07/FY2021-FMCSA-TITLE-VI-PLAN-signed.pdf>.

- a) Please note this plan link is updated annually, but applicable personnel may reference future plans at:
<https://hidot.hawaii.gov/administration/ocr/title-vi-program/>.
Furthermore, consistent with Executive Order 13166 and §321C, Hawaii Revised Statutes, HDOT's Language Access Plan (updated bi-annually) is also available for review at the above hyperlink and covers procedure and policy for language access requests.
- b) Furthermore, to ensure compliance with this policy is in line with general Title VI compliance, periodic monitoring and oversight of said compliance shall be conducted by the HDOT Title VI Program Specialist on all applicable personnel.

APPROVED:



JADE T. BUTAY
Director of Transportation

Jul 19, 2021
DATE